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Letter dated 24 March 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire, and in accordance with paragraph 2 of Security Council resolution 1632 (2005), I have the honour to transmit herewith an update report of the Group of Experts on Côte d'Ivoire.

I would appreciate it if the present letter, together with the report, were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Adamantios Th. **Vassilakis**
Chairman
Security Council Committee established
pursuant to resolution 1572 (2004)
concerning Côte d'Ivoire

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Letter dated 29 November 2005 from the Group of Experts on Côte d'Ivoire addressed to the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire

We have the honour to transmit herewith an update report of the Group of Experts, in accordance with paragraph 2 of Security Council resolution 1632 (2005).

(*Signed*) Atabou **Bodian**
Chairman

(*Signed*) Alex **Vines**

(*Signed*) Jean-Pierre **Witty**

Update report of the Group of Experts submitted pursuant to paragraph 2 of Security Council resolution 1632 (2005) concerning Côte d'Ivoire

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Abbreviations

DUS	Droite unique de sortie
ECOWAS	Economic Community of West African States
FACI	Force aérienne de la Côte d'Ivoire
FANCI	Forces armées nationales de la Côte d'Ivoire
FN	Forces nouvelles
IMF	International Monetary Fund
NGO	Non-governmental organization
UNOCI	United Nations Operation in Côte d'Ivoire

I. Introduction

1. The present report is an update by the Group of Experts on Côte d'Ivoire, as requested by the Security Council in its resolution 1632 (2005). It is an update of the previous report of the Group of Experts (S/2005/699).

2. By its resolution 1632 (2005), the Security Council extended the mandate of the Group of Experts established pursuant to resolution 1584 (2005). The Secretary-General thereby reappointed the members of the Group of Experts on Côte d'Ivoire on 2 November 2005 (S/2005/696).

3. The Group was requested by the Security Council to submit its update before 1 December 2005, prior to the expiry of its mandate on 15 December 2005.

II. Methodology of the investigation

4. In its investigation, the Group of Experts relied on fully authenticated documentary evidence. Where that was not possible, the Group required at least two credible and verifiably independent sources of information to substantiate a finding. The Group has investigated a number of cases to establish if violation of Security Council sanctions occurred. Allegations against States, individuals and enterprises have been put to those concerned, to allow them the right of reply. The Group of Experts consists of its chairperson and civil aviation expert Atabou Bodian (Senegal); an expert on weapons sanctions-busting, Alex Vines (United Kingdom of Great Britain and Northern Ireland); and an expert on customs control, Jean-Pierre Witty (Canada). The Group has been assisted by a consultant with financial and diamond investigative experience, Agim De Bruycker (Belgium).

5. The Group of Experts began its renewed mandate on 2 November 2005 and consulted with the Committee soon afterwards in New York. Following additional consultations with other United Nations agencies, States, and individuals in New York, the Group visited Côte d'Ivoire, Benin, France, Guinea, Mali, Nigeria, Togo, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

6. With the exception of the Republic of Guinea, the Group was well received. Despite repeated promises made in Conakry, the Group was unable to meet with any officials or receive promised documents about Forces nouvelles incursions into Guinea. During its previous mandate, the Group had visited Guinea three times in an effort to receive the promised documents without success.

7. The priority of the Group was Côte d'Ivoire. Its customs expert remained there from 5 November to 1 December 2005. In Côte d'Ivoire, the Group liaised closely with the political, police and military branches of the United Nations Operation in Côte d'Ivoire (UNOCI). The Group noted that coordination between the different branches of UNOCI greatly improved, making its mission more efficient. The Group visited Abidjan, Bouaké and Tortiya and met senior officials of the Government and Forces nouvelles (FN).

8. The Minister of Defence of Côte d'Ivoire sent on 30 November 2005 a written response to the report of the Group of Experts (S/2005/699). The Group welcomed that as it had encouraged the Ministry to make a submission by 1 December 2005 (see annex II).

9. The Group also met with the French forces (Licorne) in Côte d'Ivoire, as required under resolution 1584 (2005), and was fully briefed by them on their efforts to monitor the embargo.

III. Political context

A. Demobilization and disarmament

10. The political situation in Côte d'Ivoire remains fragile and unpredictable, as highlighted by the sixth progress report of the Secretary-General on UNOCI (S/2005/604), the seventeenth report of the Tripartite Monitoring Group, covering the period from 1 to 31 August 2005 (S/2005/611), the report of the High Representative for the elections in Côte d'Ivoire (S/2005/584, and Security Council resolution 1633 (2005).

11. On 17 November, the Group finally met the Deputy Secretary-General, General Bakayoko and zone commanders of FN in Bouaké. As reported in paragraph 13 of the report of the Group of Experts (S/2005/699), FN had previously failed to meet the Group and had impeded its investigation on a number of occasions. FN promised that future expert groups would be better received and that it would send written comments to the Group by 1 December 2005, in response to its report (S/2005/699). No such submission has been received.

12. The submission of lists of weapons by the regular army and FN remains an important prerequisite for disarmament. The Forces Armées Nationales de la Côte d'Ivoire (FANCI) submitted lists to UNOCI in August 2005, but FN has failed to do so. The Group of Experts requested such lists from FN during its Bouaké meeting, and was informed that FN had requested the Mbeki Facilitation Mission of the African Union to conduct a simultaneous audit of Government and FN weapons stocks. The representative of the Mbeki Facilitation Mission informed the Group that he had never received such a request but that he would contact the FN leadership for clarification.

13. A small step forward occurred on 16 and 17 September, when the FN Anaconda Battalion in Bouaké provided a limited number of weapons for UNOCI inspection. That exercise illustrated the difficulties in drawing up comprehensive inventories. Forty-three firearms were provided for inspection on the first day. The following day, the number declined to 33, 15 of which were new firearms that had not been previously recorded.

14. The active presence of ethnic and community militias continues to be a major source of instability, particularly in the western part of the country. In August and September 2005 a number of militias operating in the west were dismantled in the presence of the Ivorian authorities, UNOCI and the African Union Mediation. As of 1 September 2005, 4,800 militia members had been registered in that exercise, although no weapons have been collected so far.

15. As illustrated in table 1 of the report of the Group of Experts (S/2005/699), significant amounts of small arms and light weapons were imported into Côte d'Ivoire from 2002 until the imposition of restrictions contained in Security Council resolution 1572 (2004). The Group visited the Economic Community of West African States (ECOWAS) secretariat in Abuja, and met with its Executive

Secretary, its Defence and Security Department and its newly created small arms unit to discuss the 1998 ECOWAS Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons and its transformation into a binding regional convention. The Group was impressed with the small arms unit and saw potential for a close working relationship with Security Council Committees in West Africa and expert groups that have weapons embargo mandates. There was also clearly a need for ECOWAS to re-evaluate its arms exemption procedures and to design a better management system for such requests.

16. Côte d'Ivoire's adherence to the moratorium has been weak. In 2004 it requested only one exemption for light weapons imports, although the Group of Experts documented 16 individual shipments of light weapons and ammunition that year.

17. In May 2005, the Government of Côte d'Ivoire signalled that it might become more engaged in this regional initiative by nominating a head for a future national commission to implement the Moratorium. A plan is to eventually make the National Commission for Disarmament, Demobilization and Reintegration responsible for these functions. Since May there has been no further progress.

B. The media and sanctions

18. The Group of Experts conducted a comprehensive analysis of international and national written coverage of its report (S/2005/699). The report was issued on 7 November 2005, but the international press obtained access to a draft a month earlier and reported on it. In Côte d'Ivoire, the press did not report widely on it until the week of 14 November 2005. The Group notes that the French Ministry of Foreign Affairs had posted the report on its website by 11 November 2005, and that, on 17 and 18 November 2005, the Ivorian paper *Fraternite Matin* republished accurately the full text of the report. Although the Group reports (S/2005/699 and S/2005/470) were available following their publication on the United Nations website, only later were they up on the Committee website, where they are easier to locate.

19. The press focused on the rebuilding of the Ivorian airforce, defence expenditure and natural resources. There was some coverage of the presence of foreign technicians but little discussion about dual-use loopholes and the vulnerability of seaports and customs procedures for embargo violations. Most of the international articles were accurate, while some of the Ivorian press tried to undermine the report, including by suggesting that the Group was desk-bound in New York and had never visited the field. Having the full report and annexes more quickly accessible on the Committee website would have helped to counter such inaccurate reporting. The Director of Public Information of UNOCI could assist the Security Council Subsidiary Organs Branch of the Department of Political Affairs in setting up an efficient and responsive dissemination and media strategy.

IV. Defence expenditure and natural resources

20. The Group reported extensively in its report (S/2005/699, paras. 22-58) on high defence expenditure. According to the President of the National Assembly, the Government had spent 240 billion CFA francs (CFAF) on military hardware prior to the military crisis in early November 2004. The 2004 and 2005 official budgets for defence and security expenditure remain high, but show no indication of how the allocated funds are spent (see tables 1 and 2 below). The Government, in its meetings with the Group of Experts admitted it maintained high defence and security expenditure. The Security Council should encourage the Ivorian Government to submit a comprehensive breakdown of that expenditure for 2005/06 to the United Nations Standardized Instrument for Reporting Military Expenditures.

Table 1
Ministry of Defence Budget
(CFA francs)

	2004 (spent)	*2005 (budget)*
Personnel expenses	125 704 132 821	124 275 416 179
Allowances	5 846 218 946	6 024 818 737
Other expenses	24 685 916 843	38 484 758 561
Investment	12 300 000	5 696 900 000
Total	**156 248 568 610**	**174 481 893 477**

Source: Government of Côte d'Ivoire.

Table 2
Ministry of Security budget
(CFA francs)

	2004 (spent)	*2005 (budget)*
Personnel expenses	45 175 026 343	44 101 238 943
Allowances	5 846 218 946	6 024 818 737
Other expenses	1 854 276 851	2 100 077 036
Investment	3 570 463 578	3 535 700 000
Total	**56 445 985 718**	**55 761 834 716**

Source: Government of Côte d'Ivoire.

A. Cocoa

21. As reported by the Group in its report (S/2005/699), natural resources are an important funding source. Cocoa remains the prime source of revenue for the Government, as it is the largest exporter in the world. Total cocoa production for 2004/05 was around 1,230,000 tons. The 2004/05 crop is forecast to be 1.3 million tons. In 2003, exports generated $2.3 billion from cocoa. An audit undertaken in 2003 has mapped a complicated situation of competing quasi-fiscal agencies that represent cocoa producers but increasingly seem to pursue their own interests and

claim tax on cocoa exports. It is possible to assess what revenue they generate but less easy to know what they spend that money on. As was reported in the previous report of the Group (S/2005/699), these agencies have permitted the diversion of cocoa revenue expenditure by the Government, including for military spending.

22. Bilateral donors and multilateral institutions such as the World Bank and the International Monetary Fund (IMF) wish to see full transparency of the cocoa sector. An audit of expenditures of cocoa revenues, especially of the *Bourse du cacao et du café* and the quasi-fiscal agencies such as the *Fonds de développement et de promotion des activités des producteurs de café et de cacao*, is critical, as in the past they have been used as avenues to procure military hardware (see S/2005/699, table 2).

23. High duties have also acted as an incentive for cocoa smuggling to Ghana and Togo. In an interview with Reuters on 25 November 2005, FN political leader Guillaume Soro admitted, "I took the decision that cocoa should not go to the ports of San Pedro and Abidjan because we are in a war situation. It is not for us to send it down to Abidjan and give (President Laurent) Gbagbo the means to buy weapons to fight us. That would be stupid. That is why we decided the cocoa should go up and leave through other ports — Guinea, Togo and Ghana. We have set up a tax system and this money is used for the rebellion."

B. Petroleum

24. Oil production is becoming an increasingly important source of revenue for the Government, which has grown from 194 million CFAF in 2003 to 253 million CFAF in 2004 and to 471 million CFAF in 2005. The World Bank estimates that it will triple to 1,140 million CFAF in 2006 and to 1,068 million CFAF in 2007. This steep increase is because the Canadian Natural Resources (CNR) International Baobab oilfield came into production in 2005 and is expected to reach production of 50,000 barrels per day. CNR has been producing oil from the Espoir field since 2002. Production from these two fields is governed by two production-sharing contracts. Under the contracts, revenues are divided into cost recovery and profit revenue. The Government chose to uplift its own quota of crude oil production from the Espoir field to sell on the international spot market, which is not the case with the Baobab field. The United States firm Devon Energy Corporation is also an operator of the Lion and Panthere fields, which produce nearly 20,000 barrels per day on block CI-11. Under its budget for 2005, Côte d'Ivoire estimated $35 per barrel for production. That is clearly a significant underestimate given current oil prices, and it unclear where the surplus funds would go.

25. Signature bonus payments in Côte d'Ivoire are small and companies such as CNR have announced them to the press. On 27 October 2005, the United States-based Vanco Energy Company announced that it had paid $3 million for exploration rights to blocks CI-101 and CI-401. Other companies, such as Energetic of South Africa, which was awarded two licences for CI-12 and CI-104 in mid-November 2005, and the Italian company Edison, which signed for block CI-24 on 3 November, are less transparent. Public disclosure of oil taxes and royalties is important, and, according to the World Bank, Côte d'Ivoire should participate in the Extractive Industries Transparency Initiative. Currently, such payments do not appear in State budget projections, so there is no trace of the size of the funds or where they go.

C. Diamonds

26. The findings of the Group on diamonds are described in detail in paragraphs 47 to 58 of its report (S/2005/699). The international media, non-governmental organizations (NGOs) and the Kimberley Process have picked up on that information. In a final communiqué of the Kimberley Process plenary meeting in Moscow, held from 15 to 17 November 2005, the Russian presidency announced the setting up of a special working group to deal with conflict diamonds from Côte d'Ivoire. UNOCI informed the Group that it was ready to assist with logistical support any investigation by the special working group of the Kimberley Process.

27. FN was defensive about its diamond production when the Group met its leadership in Bouaké on 17 November 2005. In an interview with Reuters on 25 November 2005, Guillaume Soro claimed that "This is our territory. It's the land of our ancestors. We are exploiting it in the interests of our own posterity. For the moment we don't have a system so that money from diamonds comes back to the Forces nouvelles."

28. FN allowed a joint team visit by the Group of Experts and UNOCI to the alluvial diamond production area of Tortiya, north of Bouaké. The Group visited the area on 18 November 2005 and observed that artisanal production continued.

29. On the day of inspection, the Group counted over 250 people working along a river and in diamond pits. The largest concentration was along a river and near the town. The Group was shown three carats of rough diamonds found that morning. A French national resident in Tortiya told the Group that a French mining company, SAREMCI, had ceased its activities in 2002 and that diamond production had declined dramatically from an average of 200,000 carats per year. The on-site visit confirmed that SAREMCI had ceased operations and that the infrastructure was deteriorating rapidly. Tortiya is clearly far less important for diamond production than Séguéla and its best diamonds are bought by Séguéla-based dealers who send their agents there on a regular basis. As reported in the Group report (S/2005/699), the diamonds are then illicitly exported, via Guinea and Mali.

30. FN was more relaxed in Tortiya than the Group had previously observed in Séguéla, but it also taxed economic activity around Tortiya. Vehicles entering and leaving Tortiya are obliged to pay a FN checkpoint tax of 3,000 CFAF, and are issued official FN receipts. In Tortiya and Séguéla FN appears to have set up a system of indirect taxation to capitalize upon the alluvial diamond trade. Timber production is probably more important than diamonds are for the FN economy and also important for the economy of Séguéla. Given the current high commodity prices for gold, alluvial gold production may be as financially important as diamonds. A number of alluvial diamond diggers had in November 2005 departed from Tortiya for Mali to work at alluvial gold deposits there.

V. Effectiveness of the sanctions

31. The Group of Experts believes that there are no gross violations of the sanctions currently, although Côte d'Ivoire ports, airports and land borders are easy to penetrate and vulnerable. There are plentiful supplies of arms in Côte d'Ivoire, making imports of large shipments of weapons unnecessary at the present time.

A. Ports and airports

32. In paragraphs 60 to 69 of its report (S/2005/699), the Group assessed the vulnerability of ports and airports. The fruit terminal at the Autonomous Port of Abidjan in particular was noted as a strategic location. The Group noted that unimpeded access by UNOCI to that part of the port remains challenging. On 24 October 2005, military and police from UNOCI were blocked from visiting the terminal after they received information about the suspicious unloading of cargo from a ship. After several hours of negotiation the team was allowed to proceed, but it proved too late to determine whether any suspicious cargo had been unloaded.

33. Since September 2005, UNOCI has also reported increasing problems of access to the port of San Pedro and hostility from the harbour master. Its team has recommended reducing the number of inspections to build good will. That recommendation will also weaken monitoring of compliance with the embargo and should be reassessed.

34. Licorne also reported to the Group its concern about the vulnerability of airports. The monitoring of airports late at night is poor, although, on further inspection by the Group, a number of flights regarded as suspicious were found to be engaged in legitimate business. As is described in case studies two and three, scheduled airlines, such as Ethiopian Airlines and DHL, appear to have been used in November 2005 by FANCI to import equipment and spare parts.

B. Regional and international compliance

35. The Group was pleased to observe continued awareness of Security Council resolutions 1572 (2004), 1584 (2005) and 1632 (2005). As noted in its previous reports (S/2005/699 and S/2005/470), understanding the specifics of the resolutions was not as good, and the Group believes that that could be improved by tighter definition of the scope of the embargo in a future resolution. Member States also noted that they could not fully implement resolution 1572 (2004), since the Security Council Committee had failed to designate the names of individuals and entities that would be subject to the travel ban and assets freeze. Those names would include those who had violated the four pillars of the sanctions regime by:

- Incitement to hatred and violence in the media
- Violation of the arms embargo
- Obstruction of the peace process
- Violation of human rights and international humanitarian law

36. Nevertheless, the Group observed that many States are complying with the embargo. There are several cases where States have acted on information documented by the Group in its report in paragraphs 114 to 122 (S/2005/699). The Togolese authorities, on 28 October 2005, issued Decree No. 2005 — 097 PR, which stopped all work on two Mig-23 "Floggers" and two Mi-8T helicopters at Lomé Airport until ownership can be proven (see annex III). The Group visited Togo in late November 2005 and was briefed about ongoing investigations by the authorities. French national Robert Montoya, of the Darkwood company, claims ownership of the Mi-8Ts, but was unexpectedly called to Europe on business during the visit of the Group to Lomé. Despite his absence, the Group observed that one of the Mi-8T aircraft was in the Darkwood hanger and the other one was outside; there

were no visible signs of additional refurbishment. Whether these aircraft belong to the Ivorian Government or to Darkwood remains to be firmly established.

37. On 2 December 2005, on authorization of the Defence Minister, the Togolese authorities searched Darkwood and two other companies run by Robert Montoya or his wife in Lomé.

VI. Possible violations of the sanctions

38. Prior to the embargo, significant shipments of weapons and associated military equipment were procured by the protagonists. They are well stocked and their current defence and security needs are mostly for transportation, spare parts and maintenance and training for their equipment.

A. Dual-use items

39. In its previous reports (S/2005/470 and S/2005/699), the Group highlighted the widespread confusion over the procurement and use of dual-use equipment in Côte d'Ivoire and sought guidance from the Security Council Committee. The Committee responded by saying it would look at each example provided by the Group on a case-by-case basis to reach an opinion. The Group provided a number of examples in its previous report (S/2005/699) and includes in this report two new cases. The slowness of the Security Council Committee in reaching any decision on past cases is itself eroding the impact of the sanctions.

Case study one: Update on 22 UAZ-3151 vehicles

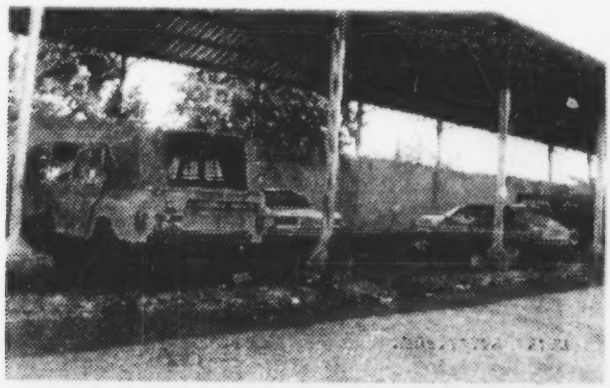
40. In paragraphs 124 to 151 of its report (S/2005/699), the Group investigated in depth the supply chain and delivery of these vehicles. On 16 September 2005, the Ministry of Defence informed the Group that it had stored these vehicles until the Security Council Committee reached a verdict on whether they violated the embargo. The Group had been allowed to photograph 19 of the vehicles in July 2005, parked at a military barracks near the Ministry of Defence in Abidjan.

Photo 1: 19 UAZ-3151 vehicles at the Ministry of Defence in July 2005

Source: Group of Experts, Abidjan, July 2005

41. During its meeting with the Ministry of Defence on 24 November 2005 in Abidjan, the Group was informed that vehicles had been distributed for use by the Centre de commandement de opérations de sécurité and were used on patrols. The Group also observed only two UAZ-3151 vehicles parked at the same spot where it had photographed 19 of them in July 2005. A third vehicle was seen parked in another location. The Ivorian authorities have clearly decided not to wait any longer for a decision of the Security Council Committee. This case illustrates the need for quicker decision-making by the Committee.

Photo 2: Two UAZ-3151 vehicles at the Ministry of Defence in November 2005



Source: Group of Experts, Abidjan, November 2005

Case study two: DHL imports

42. On 24 November 2005 the Group noticed a DHL box in an office at the Ministry of Defence in Abidjan with the code number 8446298840 and DHL written in Chinese on its packaging. The package appeared newly opened and contained new green military boots and bags. When asked about the box, Ministry of Defence officials claimed it contained military materials manufactured in Côte d'Ivoire, although it was obvious to the Group from the quality of the military boots that that was an unsatisfactory explanation.

43. An investigation into the history of the box established that it had originated in Pudong, China, and had been dispatched on 15 November 2005. It was then shipped by DHL through Brussels and Lagos, arrived in Abidjan on 17 November at the DHL Service Centre and was forwarded for customs clearance immediately. Customs released the box to the DHL Service Centre on 23 November, and the box was delivered to its final destination on 24 November. The package must have been delivered and opened just prior to when the Group observed it at the Ministry of Defence at lunchtime on 24 November 2005. Although the Group attempted to obtain further details on the box, DHL declined to assist, claiming it needed to respect client confidentiality.

Case study three: AN-12 tyres

44. On 11 November 2005, UNOCI inspected cargo being unloaded from a scheduled flight of Ethiopian Airlines at Abidjan International Airport and found a consignment of nine AN-12 aircraft tyres destined for the Ministry of Defence.

45. That shipment was sent by Promex General Trading, in the United Arab Emirates. The client on the bill of lading is Afi-Technik p/c Ministry of Defence Abidjan, it is signed by Rajiv and dated 22 October 2005. The cargo had been loaded at Dubai for Abidjan by Ethiopian Airlines (see annex IV). Promex General Trading confirmed to the Group that they had dispatched 20 AN-12 tyres to Abidjan and that the freight charges had been paid in cash in their office in Sharjah by a person of African nationality. The person had paid for the tyres 10 months earlier, within the period of the United Nations sanctions.

Photo 3: AN-12 tyres for the Ministry of Defence

Source: Group of Experts, Abidjan Airport, November 2005

46. In November 2005, the Group visited the company Afi-Technik in Abidjan and interviewed the director of the company. The company mainly deals in spare parts for vehicles. When the Group showed the director the manifest, he denied that he had ever ordered the tyres and said that the name of his company had been abused on the document. The director has no suppliers from the United Arab Emirates and works mostly with suppliers in Europe.

47. The director also provided several invoices for spare parts ordered for the Ministry of Defence (spark plugs, hydraulic lines, small pistons and four engines), but was clear that he had never ordered tyres for an AN-12 aircraft. He also informed the Group that "some time ago" two individuals met him at his office and apologized for using his company name. One of those individuals works for the Ministry of Defence in the procurement section.

48. This case study once more illustrates the Ministry of Defence pro-activity in seeking to repair and maintain its air force.

Case study four: Mercenaries and mechanics

49. In late October 2005 the New York-based NGO Human Rights Watch alleged that there had been renewed recruitment of youth in Liberia for military services in Côte d'Ivoire. Given its short mandate, the Group of Experts was unable to verify that information, but it requested the assistance of the Panel of Experts on Liberia, pursuant to Security Council resolution 1607 (2005), to investigate and report on the issue.

50. Foreign nationals continue to play a role in maintaining the air assets of Côte d'Ivoire, especially its Mi-24P helicopter and its AN-12 transport aircraft. The Ivorian authorities confirmed to the Group that eight Belarusian technicians and two Ukrainian nationals provide advice but claimed that they do not work on the aircraft and are attached to contracts arranged prior to the embargo. They also claimed that the AN-12 is not a military aircraft and is therefore not sanctioned.

51. The Group and UNOCI have observed those individuals working on both aircraft and have photographs and multiple reports to prove this. The AN-12 is also on lists provided to the Group by FACI and is registered to the military. It has been observed by UNOCI to fly on military and non-military missions. The efforts of the Ministry of Defence to maintain its air force has been described in depth in paragraphs 101 to 113 of its report (S/2005/699). The importation of AN-12 tyres described in case study three above is further evidence that that is a priority.

52. A South African national who advised FANCI, as reported in the Group report (S/2005/699), had departed from Côte d'Ivoire for Sudan by September 2005. The Group also tried to contact Michel Kapylou, a Belarus official who had been resident in Côte d'Ivoire until at least May 2005. According to Ivorian officials, he had worked for the Belarus Ministry of Defence as part of their defence contracts but had left Côte d'Ivoire. The Government of Belarus denies any knowledge of him (see S/2005/699, annex XVII).

VII. Observations

53. The Group of Experts stands by its observations in paragraphs 168 to 178 of its report (S/2005/699). Regarding fiscal transparency, the Group wishes to

emphasize that a comprehensive, independent and credible international financial audit of the expenditures of the *Bourse du cacao et du café* and the quasi-fiscal agencies would ensure that any diversion for defence and security purposes could be tracked. The European Union, the World Bank and the IMF would support such an exercise.

54. The Secretariat needs to improve its efforts to publicly disseminate reports of the Group of Experts on Côte d'Ivoire and should work out an efficient strategy with the Director of Information of UNOCI.

55. The pace of decision-making of the Security Council Committee regarding violations needs to be quickened, as lengthy delays can erode the effectiveness of the sanctions.

56. The Group also noted that Côte d'Ivoire has not made submissions to the United Nations Register of Conventional Arms and recommends that it does so by submitting a baseline statement of acquisitions currently in its possession (with the year and export country indicated). The Group also encourages Côte d'Ivoire to invest in creating a viable National Commission for the ECOWAS Moratorium on Small Arms and Light Weapons and to play an active role in the negotiations to transform the Moratorium into a binding regional convention.

57. Currently there is a "dual-use" loophole for military imports. This could be remedied by the Security Council drafting a tighter definition when it reviews the sanctions regime.

58. The Group recommends that the Security Council call upon FN to provide UNOCI with a comprehensive inventory of the weapons in its possession as a matter of urgency.

59. There is widespread frustration on the part of Member States at not being able to implement fully Security Council resolution 1572 (2004) because the Committee has failed to provide them with names of individuals or organizations for an assets freeze or travel ban. The Committee needs to clarify that situation as a matter of urgency.

Annex I

Meetings and consultations

Benin

Government

Ministry of Foreign Affairs

Multilateral and bilateral agencies

UNDP

Côte d'Ivoire

Government

Ministry of Foreign Affairs
Ministry of Defence
Ministry of Transport
Ministry of Tourism
Office of the President
Hotel Ivoire

Armed non-State actors

Forces nouvelles

Multilateral and bilateral agencies

European Commission
ECOWAS
Licorne
UNDP
UNOCI
The World Bank

Diplomatic entities

Embassy of Benin
Embassy of Brazil
Embassy of Canada
Embassy of Japan
Embassy of Nigeria
Embassy of South Africa
Embassy of the United Kingdom of Great Britain and Northern Ireland
Embassy of the United States of America

Private sector

Afi-Technik
CNR International (Canadian Natural Resources)
DHL
Pathfinder

Public media

BBC World Service
Voice of America

France

Multilateral and bilateral agencies

Centre d'etudes et de recherches internationales

Private sector

Africa Energy Intelligence

Guinea

Diplomatic entities

Embassy of France

Multilateral and bilateral agencies

UNDP

Mali

Government

Centre d'etudes strategiques

Diplomatic entities

Niger Foreign Ministry delegation

Multilateral and bilateral agencies

UNDP

Nigeria

Government

Ministry of Foreign Affairs

Multilateral and bilateral agencies

ECOWAS
UNDP

Diplomatic

High Commission of Canada
Embassy of the United States of America

Private sector

Reuters

Togo

Government

Ministry of Foreign Affairs
Ministry of Defence
Ministry of Transport

Multilateral and bilateral agencies

UNDP

Private sector

Africa West
Maison du journalisme

United Kingdom of Great Britain and Northern Ireland

Government

Foreign and Commonwealth Office

Multilateral and bilateral agencies

Royal Institute of International Affairs (Chatham House)

United States of America

Government

Department of State

Multilateral and bilateral agencies

Center for Strategic and International Studies
The Henry L. Stimson Center
Human Rights Watch
The International Monetary Fund (IMF)
The World Bank

United Nations

Department for Disarmament Affairs
Department of Peacekeeping Operations
Department of Political Affairs

Permanent Missions

Côte d'Ivoire

Annex II

Ivorian Ministry of Defence submission to the Group, 30 November 2005

MINISTRY OF DEFENCE
CABINET

REPUBLIC OF CÔTE D'IVOIRE
Union-Discipline-Work

Abidjan, 30 November 2005

OBSERVATIONS ON THE REPORT OF THE UNITED NATIONS GROUP OF EXPERTS ON COMPLIANCE WITH THE EMBARGO

On 18 November 2005, the Ministry of Defence of the Republic of Côte d'Ivoire received a copy of the final report of the Group of Experts on Côte d'Ivoire established pursuant to paragraph 7 of Security Council resolution 1584 (2005). The meeting with the United Nations Group of Experts, led by its chairperson, Mr. Atabou Bodian, was held in the conference room of the Ministry of Defence at 10.30 a.m.

- Having examined the report of the Group of Experts and considered it in context, we have the following observations.

In application of resolution 1572 of 15 November 2004, an embargo on arms, materiel and other services intended for military purposes was imposed on Côte d'Ivoire. The Security Council established a Group of Experts to monitor compliance with the embargo.

The mission of the Group of Experts was:

- to examine and analyse information gathered by the United Nations Operation in Côte d'Ivoire (UNOCI) and the French forces which support it; and
- to gather and analyse all relevant information in Côte d'Ivoire, countries of the region and, as necessary, other countries, on flows of arms and related materiel, and the provision of assistance, advice and training related to military activities.

It should be noted at the outset that the objective of the embargo established by resolution 1572 of 15 November 2004 is to prevent any further violation of the ceasefire agreement of 3 May 2003 and the resumption of hostilities in Côte d'Ivoire.

The observations of the Government of Côte d'Ivoire refer both to the form and the substance.

As to the form:

Thirty-one out of 42 pages in the report of the Group of Experts of the United Nations are devoted to describing the arms and activities of the regular defence and security forces of Côte d'Ivoire, *before* and *after* the adoption of resolution 1572 of 15 November 2004 establishing the arms embargo.

Except for the document on the programme of meetings between the Group of Experts and the institutions, groups and private agencies, the annexes to the report refer only to activities of the regular army of Côte d'Ivoire or of persons that have a relationship with the Ministry of Defence of Côte d'Ivoire.

As to the substance:

Although it recognizes that the Forces nouvelles have not collaborated as they should and have hindered their investigation, the Group of Experts takes an approach in its report on the governmental forces of Côte d'Ivoire that is very confusing.

Resolution 1572, establishing the arms embargo, was adopted on 15 November 2004.

The report refers to events without specifying any dates. Thus, references are made to the existence of unarmed groups of young people, such as FESCI (Féderation Estudiantine de Côte d'Ivoire) or GPP (Groupement Patriotique pour la Paix), and armed groups such as MILOCI, FLGO AP-WE; some of those groups, such as FESCI, have been in existence for over 10 or 15 years, and all the rest have been in place for over two years, at least. They did not come into existence after the establishment of the embargo.

Resolution 1572 of 15 November 2004 is not retroactive; therefore, it cannot be applied to events that occurred prior to 15 November 2004.

From this standpoint alone, the Group of Experts did not consider it necessary to include in the short introduction a warning that the report might be misleading. This observation is also valid for other issues mentioned, such as the presence of foreign workers from Belarus, Ukraine, France, Russia, Israel and others.

This is also the case with the two Mig 23 aircraft at the Lomé airport, which were exchanged for two Sukkhoi aircraft well before the embargo of 15 November 2004. The foreign workers were also under contract well before the embargo.

After 15 November 2004, most of the foreign workers' contracts were terminated. Of a total of approximately thirty foreign workers, we only kept five to provide maintenance for those aircraft that were still fit to fly. The contracts of the remaining 25 workers were rescinded in order to comply with the text and the spirit of resolution 1572 of 15 November 2004.

Concerning the 22 UAZ-3151 vehicles, the Ministry of Defence stated that from the beginning the Ministry had ordered munitions. The order had not been completed when resolution 1572 was adopted. In view of the new situation created by the embargo, the Ministry decided to take delivery of jeeps which, according to General Fall, "do not constitute in themselves military equipment". He adds "that they could be used by the military for carrying commanders/key persons in the battlefield and used as mobile unit platforms to mount medium calibre weapons".

These observations by General Fall should cause any investigator to pursue more reliable leads in looking for evidence.

When members of the Ministry of Defence raised questions as to why 4/4 vehicles were considered to be military vehicles, the chairperson of the Group of Experts replied that the Security Council had not yet reached a verdict. This is a difficult question because saying that a 4/4 vehicle is a military vehicle would mean that purchasing any 4/4 vehicle in a country that is under embargo would be a violation of the embargo.

It is just common sense to say that a jeep, or 4/4 vehicle, does not constitute military equipment unless it can be shown that it has been used for carrying arms in the

battlefield. The 22 vehicles in question have never been used to carry arms; moreover, they are considered to be intended for practical use. The police did not show much interest in these vehicles because they did not find them "comfortable" enough. They were to be assigned to CECOS (Centre de Commandement des Opérations de Sécurité), a joint Police and Gendarmerie unit. In the end, they were assigned to the gendarmerie brigades that needed them.

As religious people say, "When in doubt, abstain ..."

But suffice it to say that in a more scientific, if not more stringent, legal analysis, the general principles of law provide that any legal rule that might limit the rights of individuals should be interpreted in the strict sense. We merely recall this general principle of law to point out that the terms of resolution 1572 establishing the embargo should be interpreted in the narrow, not the broad, sense; in other words, do not go beyond what the embargo authorizes.

In this case, the jeeps, as General Fall stresses in his report to the United Nations, "do not constitute in themselves military equipment". They would only be military vehicles if arms were mounted on them and/or they were used in the battlefield.

If, in exceptional cases, the procurement of a 4/4 vehicle constituted a violation of an arms embargo simply because the 4/4 or jeep-type vehicle was included on a list maintained by the Security Council committee monitoring the embargo, as Mr. Tabou Bodian, chairperson of the Group of Experts, seems to imply, then the Government of the Republic of Côte d'Ivoire would request that this list of vehicles should not be communicated subsequent to the adoption of resolution 1572, in order to disclaim its responsibility.

Finally, with regard to the idea of repairing or reconstituting the Ivorian air fleet, we would simply point out that we have never made a mystery of this. We reported the matter to the United Nations sanctions committee in several messages dated 16 February 2005.

These e-mails were requests for authorization to send abroad the aircraft that needed to be returned to the manufacturer for repair, either for spare parts to repair four (4) Puma aircraft or to replace a leased helicopter that was destroyed by the French forces. The chairman of the sanctions committee, Mr. Adamantios Vassilakis, confirmed on 20 October 2005 at Abidjan that the e-mails had been received, and assured us that he would regularly submit the file to the sanctions committee for review and follow-up. We are waiting for this to happen. Incidentally, the main request for derogation was affirmed in resolution 1572 in its article 8 (b), which provides that measures imposed by article 7 shall not apply to "supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training, as approved in advance by the Committee established by paragraph 14" of the same resolution. Hence, Côte d'Ivoire has requested authorization to procure non-lethal military equipment for humanitarian and protective use.

That is why we avail ourselves of every opportunity to protest on this matter, because there is a tendency to make hasty generalizations and tendentious insinuations, when a strictly scientific approach should be taken.

It is important to ensure that interventions from the international community, specifically the United Nations, do not cause a stalemate in the conflict. That would

be a discredit to the international community and discourage Member States from making use of internal regulatory and problem-solving mechanisms in international relations.

In conclusion, we wish to stress that the United Nations Group of Experts has not been able to establish conclusively that the Republic of Côte d'Ivoire did in any way violate Security Council resolution 1572 during the period between 15 November 2004 and 7 November 2005. Finally, Côte d'Ivoire takes note of the final report of the United Nations Group of Experts, dated 7 November 2005, subject to the remarks based on hasty generalizations and regrettable insinuations being withdrawn and subject to the application of the principles of non-retroactivity of laws and strict interpretation of legal rules that might limit the rights of individuals.

The Minister of Defence
(*Signed*) AMANY René

Annex III

Togolese Presidential Decree No. 2005-097 PR on Mig-23 and Mi-8T aircraft

The Presidency of the Republic

The Togolese Republic
Work — Liberty — Country

Decree No. 2005-097 PR

Impoundment of MIG 23 and MI-8 aircraft as a precautionary measure

The President of the Republic

- In view of United Nations Security Council resolution 1572 (2004) of 15 November 2004, in particular paragraphs 7, 8 and 14,

- In view of the Constitution of 14 October 1992, as amended by Act No. 2002-028 of 31 December 2002, in particular article 58,

On the report of the Minister attached to the Presidency and responsible for defence and former combatants,

Decrees

Article 1

The MIG 23 aircraft with registration Nos. 27204 and 27219 parked at the Lomé Transport Base and the two MI-8 aircraft parked at the Gypaele-Darkwood parking area in Lomé are hereby impounded as a precautionary measure and commended to the safekeeping of the Minister attached to the Presidency and responsible for defence and former combatants.

Article 2

Their owners shall have two months from the date of publication of this decree to submit to the said Minister a request for the exemption contemplated in resolution 1572 (2004), paragraph 14(c).

Article 3

This decree shall be published in the Official Journal of the Togolese Republic.

DONE at Lomé on [illegible]

(*Signed*) Faure Essozimna **Gnassingbe**

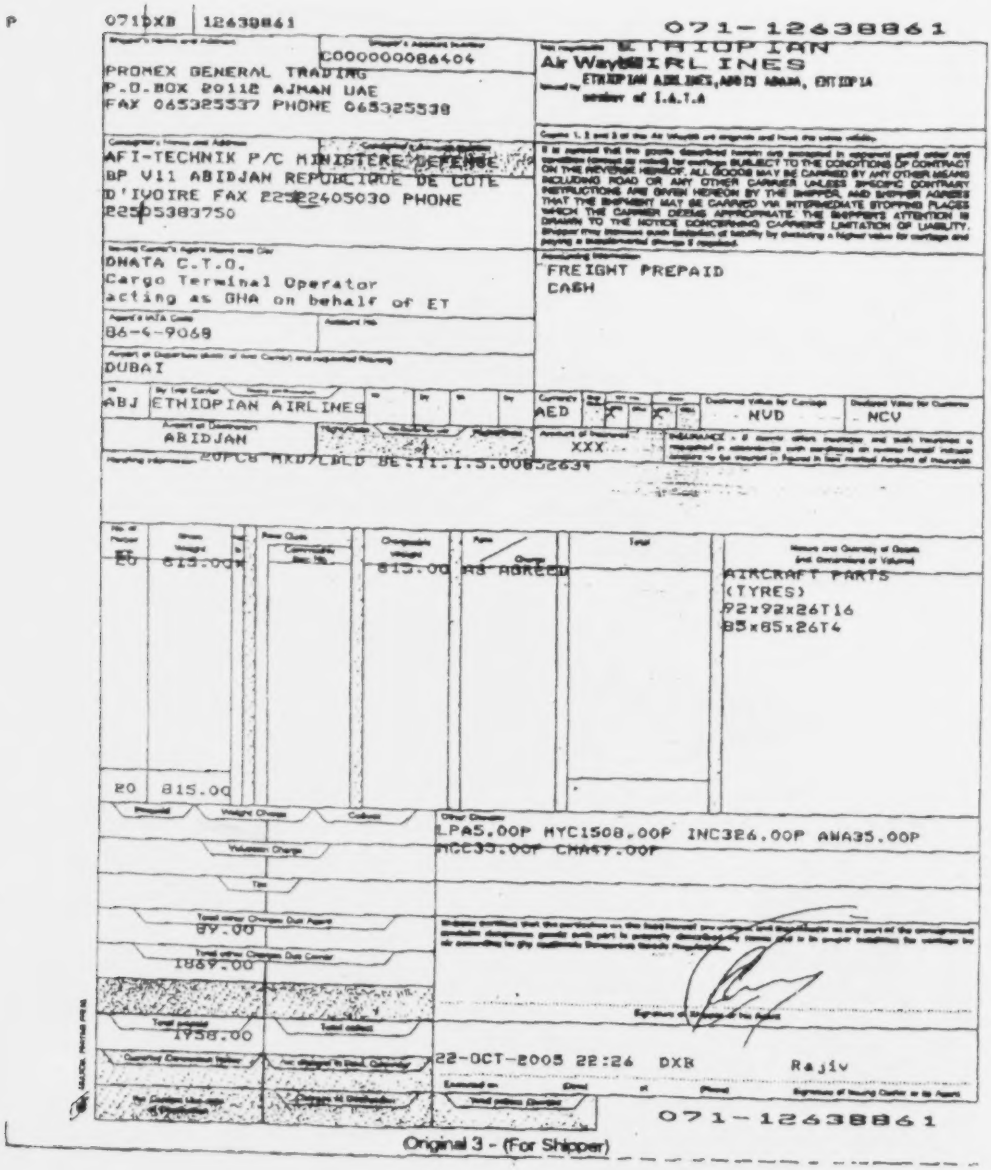
(*Signed*) Edem **Kodgo**
Prime Minister

Certified copy

The Director of the Office
of the President of the Republic
and, by delegation, the chargé de missions
for the Presidence of the Republic
(*Signed*) Essomanam **Edjeba**

Annex IV

Original bill of lading for AN-12 tyres



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ETHIOPIAN
Air WaybIRLINES

C000000086404

PROMEX GENERAL TRADING
P.O.BOX 20112 AJMAN UAE
FAX 065325537 PHONE 065325538

AFI-TECHNIK P/C MINISTERE DEFENSE
BP V11 ABIDJAN REPUBLIQUE DE COTE
D'IVOIRE FAX 22522405030 PHONE
22505383750

DHATA C.T.O.
Cargo Terminal Operator
acting as GHA on behalf of ET

86-4-9068

DUBAI

ABJ ETHIOPIAN AIRLINES

AED

NVD

NCV

ABIDJAN

XXX

FREIGHT PREPAID
CASH

20PCS MKD/LWCD BE:11.1.5.00852634

20	815.00K	815.00	KS AGREED		AIRCRAFT PARTS (TYRES) 92x92x26T16 85x85x26T4
20	815.00				

LPA5.00P MYC1508.00P INC326.00P ANA35.00P
NCC35.00P CHA57.00P

87.00

1887.00

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Original 3 - (For Shipper)

Annex V

Map No. 4230 Rev. 7 UNITED NATIONS
December 2005

Department of Peacekeeping Operations
Cartographic Section